

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

James Hildred Proctor, Jr.,	)	Case No.: 9:23-cv-06236-JD-MHC
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER AND OPINION</b>
Ronald E. Vican, Mark Peter Pazauhanich,	)	
Donald Fernbach, Linda C. Fogel, Monroe	)	
County,	)	
	)	
Defendants.	)	

This matter is before the Court with the Report and Recommendation (“Report”) of United States Magistrate Judge Molly H. Cherry, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> (DE 6.) Plaintiff James Hildred Proctor, Jr. (“Plaintiff” or “Proctor”), a state prisoner at SCI-Houtzdale in Houtzdale, Pennsylvania, proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983. Plaintiff appears to allege claims about his October 2000 trial. (DE 1, p. 5.) He requests monetary damages and release from prison. (*Id.* at 6.)

The Report was issued on December 20, 2023, recommending Plaintiff’s case be transferred to the United States District Court for the Middle District of Pennsylvania because none of the named Defendants reside in South Carolina, and Plaintiff has not alleged that any of the events or omissions that gave rise to this claim occurred in this district.<sup>2</sup> Therefore, venue under

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

<sup>2</sup> Plaintiff also filed a motion to change venue. (DE 8.) Given the ruling herein and transfer of jurisdiction, this motion is terminated as moot.

28 U.S.C. § 1391 is inappropriate in the District of South Carolina. Plaintiff did not file an objection to the Report. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court finds no clear error on the face of the record. Therefore, the Court adopts the Report (DE 6) and incorporates it here by reference.

It is, therefore, **ORDERED** that Plaintiff’s case is transferred to the United States District Court for the Middle District of Pennsylvania.

**IT IS SO ORDERED.**

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Joseph Dawson, III  
United States District Judge

Florence, South Carolina  
February 5, 2024

#### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from this date, under Rules 3 and 4 of the Federal Rules of Appellate Procedure.